

Federal Communications Commission

Docket No. 93-23 Exhibit No. C-36-206

Presented by Coleman **DEC 3-1993**

Identification Identified **DEC 6-1993**

Received Received

Rejected Rejected

Reporter C. Wagner

Date DEC 3-1993

- Terms: 1. PTS terms 25% dn w/order, 60% prior to shipping,
bal. completion of system (Labor, travel, minor
equipment items, and profit)
2. Major vendor (ITS Trans.) billed as PTS is billed
and paid from equipment account.
3. Freight and tax extra

GLENDALÉ BROADCASTING COMPANY

EXHIBIT NO. 207

MM DOCKET NO. 93-75

THE APPLICANT

George F. Gardner, under penalty of perjury, declares that the following is true and correct to the best of his knowledge:

Glendale Broadcasting Company (Glendale) is a corporation organized under Delaware law. The only class of stock which is authorized is common voting stock. I am the owner of fifty-one shares of Glendale's common voting stock, and Mary Anne Adams, my daughter, is the owner of forty-nine shares of common voting stock. Ms. Adams and myself are the two directors of the corporation. I am the President, Treasurer, and Secretary of Glendale, and Ms. Adams is the Vice President, Assistant Secretary and Treasurer. There are no other officers, directors, or stockholders of Glendale.

November 10, 1993
Date

George F. Gardner
George F. Gardner

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|-----------------------------------|-----------------|
| Federal Communications Commission | |
| File No. 93-75 | Exhibit No. 207 |
| Submitted by Subpoena | |
| Identified | 12-22-93 |
| Deposited | 12-22-93 |
| Received | |
| By: [Signature] | |
| [Signature] | |

GLENDALÉ BROADCASTING COMPANY

EXHIBIT NO. 208

MM DOCKET NO. 93-75

**STATEMENT OF GEORGE F. GARDNER
LPTV EXTENSION APPLICATION ISSUE**

George F. Gardner, under penalty of perjury, declares that the following is true and correct to the best of his knowledge:

I am the President, Treasurer, Secretary, a director, and the owner of fifty-one percent of the stock of Glendale Broadcasting Company (Glendale). I am also the President and the sole voting stockholder of Raystay Co. (Raystay). Raystay is the owner and operator of several cable television systems. Since August 1988, Raystay has owned and operated low-power television (LPTV) station W40AF, licensed to Dillsburg, Pennsylvania.

On July 24, 1990, Raystay was granted five construction permits for LPTV stations. Two of the permits (W23AW and W31AX) specified Lancaster, Pennsylvania as the community of license. Two other permits (W38BE and W55BP) specified Lebanon, Pennsylvania as the community of license. The community of license for the fifth permit was Red Lion, Pennsylvania.

On December 18, 1991, I received four applications to extend the construction permits for the Lebanon and Lancaster stations. I received the applications from Lee Sandifer, a Vice President of Raystay, who in turn received the applications from David Gardner. When David Gardner has worked on an application or other filing involving the Federal Communications

Federal Communications Commission

Docket No. 93-79 Exhibit No. C-16-306

Presented by: J. J. [unclear]

Admitted: 12-2-93

Disputed: 12-2-93

Reported: [unclear]

Reporter: [unclear]

Date: 12-2-93

Commission, Raystay's normal procedure is to have David Gardner send the application or other filing to Lee Sandifer for his review. Mr. Sandifer will then send the material to me for review and signature.

When I received the four applications, I reviewed the entire Exhibit 1 that was part of all four applications. A copy of that Exhibit 1 is attached to this statement. For each statement contained in Exhibit 1, I either had knowledge that the statement was correct, or the statement was consistent with David Gardner's job responsibility. If anything in the exhibit had appeared to be incorrect or questionable, I would have either had the exhibit changed or asked questions. I saw nothing in the exhibit that was wrong or questionable, however, so I signed each application.

I knew that the statement "At the present time, equipment for the station has not been ordered or delivered" was correct. I knew that the statement "Raystay, however, has had discussions with equipment suppliers concerning the types and prices of equipment that could be used at the site specified in the construction permit" was correct because I had had such discussions myself. I had various discussions with equipment suppliers concerning potential equipment for the Lebanon or Lancaster stations. I had continuing discussions with Jaymar, a company that made solid state transmitters. I first had

discussions with that company at the LPTV convention in Las Vegas in either 1989 or 1990. I was very interested in their equipment. I believe I had discussions with them at two LPTV conventions. Also, Jaymar would periodically send me information, and I would have telephone discussions with Jaymar concerning that information.

Another equipment supplier I had discussions with was Acrodyne, which was located in Lancaster, Pennsylvania. Acrodyne had a salesperson who called me regularly once they learned Raystay held construction permits for Lebanon and Lancaster. The company also sent me specifications for their equipment when they upgraded to solid state equipment.

I also had discussions with two other transmitter manufacturers whose names I do not recall. I also had discussions with suppliers of studio and origination equipment, switching equipment, remote control equipment, and other equipment that would have been needed at the stations. I began such discussions at the LPTV convention in Las Vegas in the fall of 1990, and I periodically updated that information.

With respect to the statement, "It [Raystay] has entered into lease negotiations with representatives of the owners of the antenna site specified in the applications, although these negotiations have not been consummated", part of David Gardner's job responsibility was to negotiate such leases for Raystay.

The statement was reasonable to me because it was consistent with David Gardner's job responsibility. I also knew that Mr. Sandifer had reviewed the exhibit, and he had passed the application to me without raising any questions.

When I reviewed the statement "A representative of Raystay and an engineer have visited the antenna site and ascertained what site preparation work and modifications need to be done at the site", that statement also related to David Gardner's job responsibility. Since David Gardner had worked with counsel in preparing this application, I accepted the statement. Also, Mr. Sandifer had not informed me that he had any question or problem with the statement.

I had knowledge that the statements set forth in the fourth paragraph of Exhibit 1 were true and correct. I had had discussions with program suppliers at the LPTV conventions I attended concerning programming that could be used on the Lancaster and Lebanon stations. I had had discussions with Video Jukebox Network concerning using their programming. These discussions took place at the LPTV convention in the fall of 1990, over the telephone, and at a cable convention in May or June of 1991. I also recalled that David Gardner and Harold Etsell, Jr. had also discussed programming with program suppliers. I also knew that Mr. Etsell had had discussions with cable television systems in the service areas of the Lancaster

and Lebanon stations to learn what type of programming would persuade the systems to carry the LPTV stations.

For the reasons stated above, I believed that the statements contained in Exhibit 1 were accurate. Since Cohen and Berfield had sent the application to Raystay for review and signature, I assumed that they thought the applications were complete. It did not cross my mind to insert additional facts into the exhibit. I signed the four applications.

On July 7, 1992, I signed a second set of applications to extend the four Lancaster and Lebanon LPTV construction permits. Mr. Sandifer did not review these applications because he was on vacation. I am currently aware that the Exhibit 1 contained in those applications is identical to the Exhibit 1 used in the first set of extension applications. When I signed the second set of extension applications, I had the knowledge I had when I signed the first set of extension applications. I still believed the statements contained in Exhibit 1 were accurate, so I signed all four applications.

November 10, 1993
Date

George F. Gardner
George F. Gardner

EXHIBIT 1

The permittee respectfully submits that a grant of the instant application would be in the public interest for the following reasons:

Initially, it must be noted that Raystay Co. has built and is currently the licensee of LPTV station W40AF licensed to Dillsburg, PA. Raystay built the station pursuant to a construction permit issued to it by the Commission.

At the present time, equipment for the station has not been ordered or delivered. Raystay, however, has had discussions with equipment suppliers concerning the types and prices of equipment that could be used at the site specified in the construction permit. It has entered into lease negotiations with representatives of the owners of the antenna site specified in the applications, although those negotiations have not been consummated. A representative of Raystay and an engineer have visited the antenna site and ascertained what site preparation work and modifications need to be done at the site.

Raystay has undertaken research in an effort to determine the programming that would be offered on the station. It has had discussions with program suppliers to determine what programs could be available for broadcast on the station. It has also had continuing negotiations with local cable television franchises to

ascertain what type of programming would enable the station to be carried on local cable systems.

The denial of this extension request could eliminate any possibility of the proposed LPTV service being offered to the community. No application mutually exclusive with Raystay's construction permit application was filed, so no other entity has expressed an interest in providing this service.

Accordingly, Raystay requests that the Commission extend the date for construction for a period of six months from the date this application is granted or from the date the current construction permit expires, whichever is later.

GLENDALE BROADCASTING COMPANY

EXHIBIT NO. 209

MM DOCKET NO. 93-75

STATEMENT OF DAVID A. GARDNER
LPTV EXTENSION APPLICATION ISSUE

David A. Gardner, under penalty of perjury, declares that the following is true and correct to the best of his knowledge:

I am employed by Waymaker Company (Waymaker) as the contract manager. Waymaker Company is a corporation that provides management services to, among other companies, Raystay Co. (Raystay). Raystay is the owner and operator of several cable television systems. It is also the licensee of low-power television (LPTV) station W40AF licensed to Dillsburg, Pennsylvania. It also held construction permits for LPTV stations. It held two permits for LPTV stations at Lancaster, Pennsylvania, two permits for LPTV stations at Lebanon, Pennsylvania, and one permit for an LPTV station at Red Lion, Pennsylvania (that permit was eventually modified to specify York, Pennsylvania as the community of license).

Part of my duties as contract manager is to work with counsel that represent Raystay before the Federal Communications Commission (FCC) to prepare and to review the various filings that need to be made with the FCC. That has been part of my job at Waymaker for several years.

In December 1991, I sent a note to Cohen and Berfield asking them to prepare applications to extend the LPTV

Federal Bureau of Investigation

Decke No. 13775 ~~Subject No.~~ 64462081

Prepared by ~~Subcommittee~~

in the ~~12-2-43~~

~~12-2-43~~ 12-2-43

Ms. 104

Reporter ~~W. H. Jones~~

Date 12-2-43

construction permits Raystay held for Lancaster and Lebanon. Shortly after I sent that note, I had a telephone conversation with John Schauble of Cohen and Berfield. Mr. Schauble and I discussed the preparation of applications to extend the construction permits. He asked me a series of questions about what actions Raystay had taken with respect to the construction of these stations. While I do not remember the specific questions he asked me, I generally remember the topics we discussed. After our telephone call, Mr. Schauble sent me a draft of what became Exhibit 1 of the extension applications and asked me to ensure that everything in the exhibit was accurate. A copy of the Exhibit 1 that was used in the extension applications, which is identical to the draft Mr. Schauble sent me, is attached to this statement.

I reviewed the draft Mr. Schauble sent me and found the exhibit to be accurate. With respect to the statement that "At the present time, equipment for the station has not been ordered or delivered," I had no knowledge whether equipment had been ordered or delivered, and I so informed Mr. Schauble in our telephone conversation. With respect to the statement, "Raystay, however, has had discussions with equipment suppliers concerning the types and prices of equipment that could be used at the site specified in the construction permit", I knew that statement was accurate because I had had

conversations with Bogner (an antenna manufacturer), tower suppliers, two transmitter suppliers, and wire suppliers (including Andrew) or representatives of such suppliers concerning equipment that could be used to build the Lancaster and Lebanon LPTV stations. These conversations took place both at an LPTV convention in Las Vegas and over the telephone. I also knew that George Gardner had had discussions with equipment suppliers concerning equipment that could be used for these stations.

With respect to the statement, "It [Raystay] has entered into lease negotiations with representatives of the owners of the antenna site specified in the applications, although those negotiations have not been consummated", I knew that I had made phone calls to the Quality Inn, the transmitter site specified in the Lebanon construction permits, and the Ready Mixed Concrete Company, the transmitter site specified in the Lancaster construction permits. While I have no independent recollection of when those phone calls took place, the attached excerpt from Waymaker's telephone records indicates that I called both places on October 10, 1991 and that each conversation was one minute long.

During October 1991, I was having discussions with Trinity Broadcasting Network (Trinity) concerning Trinity's interest in acquiring W40AF and the LPTV construction permits.

Someone from Trinity called and said that Tom Riley, a contract engineer, would be making an appointment to look at the W40AF site and the sites specified in the construction permits. Mr. Riley and I made arrangements for us to meet and to inspect the W40AF studio (as well as possibly the W40AF transmitter site). I called the Quality Inn in Lebanon and asked to speak to the manager (I did not ask for a specific person). Somebody who I understood to be a manager (I do not recall his or her name) came on the line, and I recall that Mr. Riley could make his inspection and that the site was still available. I then called the Ready Mixed Concrete Company. I spoke to somebody (I do not remember their name) who identified themselves as a manager. The person said that Mr. Riley could visit and that they could have further discussions about using the site as an antenna site.

When Mr. Schauble and I had our telephone conversation, we discussed those phone calls. When I reviewed his draft of Exhibit 1, I believed Mr. Schauble's sentence was an accurate characterization of what I told him.

With respect to the statement, "A representative of Raystay and an engineer have visited the antenna site and ascertained what site preparation work and modifications need to be done at the site", the representative of Raystay referred to in that statement is me. I visited the Lebanon

site twice and the Lancaster site twice. I believe one visit to each site took place before Mr. Riley's visits, and the second visit to each site took place after Mr. Riley's visits. The purpose of the visits was to see the sites for myself, to see where equipment might be placed, and to see what site preparation work would have to be conducted. At the Quality Inn, I looked through the window that looked out on the elevator room and the roof. I judged that the elevator room would be the best place to put the transmitter. At the Lancaster site, which was in an industrial area, I saw areas where an antenna and a transmitter might be placed.

The visits by an engineer referred to in the applications were Mr. Riley's visits to the Lebanon and Lancaster sites.

With respect to the fourth paragraph of Exhibit 1, I had talked to program suppliers from time to time about the type of programming that could be placed on the Lancaster and Lebanon stations. Harold Etsell, a Vice President of Raystay, and I had discussed what types of programming might make the Lancaster and Lebanon stations viable. I also knew that Mr. Etsell had talked to several of the major cable systems within the service areas of the Lebanon and Lancaster stations concerning the type of programming that would persuade the cable systems to carry the LPTV stations.

For the reasons noted above, I believed that the exhibit drafted by Mr. Schauble was accurate. I informed him that the exhibit was correct and acceptable. He then sent me applications to extend each of the Lebanon and Lancaster construction permits, which used the same Exhibit 1 I had reviewed and approved. I was relying upon Mr. Schauble to ensure that the applications were complete, and I did not see anything which was missing from the applications. While I do not remember the procedure that was used to have George Gardner sign these applications, my normal practice would have been to send the applications to Lee Sandifer for his review, and Mr. Sandifer would have then sent the applications to George Gardner for his review and signature.

The applications to extend the Lancaster and Lebanon construction permits were filed on December 20, 1991. Each application contained the Exhibit 1 that I had approved.

In June of 1992, Mr. Schauble and I discussed filing applications for additional extensions of the Lancaster and Lebanon construction permits. In late June of 1992, we discussed what actions had been taken with respect to the Lebanon and Lancaster construction permits. I do not recall the specifics of the conversation. I generally recall informing Mr. Schauble that we were continuing to do what we had done previously, but that no additional measures were